

FILED NOV 26 '03 PM 2:20 USDC AL

IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF ALABAMA

PRISONER COMPLAINT [FOR INMATE ACTION] UNDER 42 U.S.C. § 1983

Samuel Leavis,  
Name under which you  
were convicted

AIS, #220639  
Your prison number

CIVIL ACTION NO. 03-806-BH-C  
(To be supplied by Clerk of Court)

vs.  
Judge Herman Y. Thomas, Circuit Court of Mobile, District Attorney, John Tyson, Jr.  
Steven Giardini, Assistant District Attorney, for Mobile County.

Name of Defendant(s)

Bullock County Correctional Facility, P.O. Box 5107, Union Springs, Al 36089  
Place of Confinement and Address

INSTRUCTIONS - READ CAREFULLY

A. Complaint Form. You must file your original complaint and a copy for each named Defendant. Your complaint must be clearly handwritten or typewritten. Do not use the back of a page. Your complaint must be signed by you; no notary is required. Any false statement of material fact may serve as the basis for prosecution for perjury.

B. Proper Court. Your complaint can only be brought in this Court if a defendant is located in the Southern District of Alabama and the rest of the defendants are located in Alabama or if your claim arose in this district. The Southern District of Alabama is comprised of the following counties: Baldwin, Clarke, Choctaw, Conecuh, Dallas, Escambia, Hale, Marengo, Mobile, Monroe, Perry, Washington, and Wilcox.

C. Separate Case. It is necessary to file a separate complaint form for each claim unless the claims are related to the same incident or issue.

Revised 6/3/96

D. Defendants. The persons who are listed as defendants in section III of the complaint are deemed by the Court to be the only defendants to this action. A defendant's present address must be provided. The Court is unable to serve process without the present address being furnished. The first defendant listed in section III should be the defendant that you list in the style of your case on your complaint form and motion to proceed without prepayment of fees and costs, if applicable, and any other pleading filed with the Court.

E. Pleading the Complaint. Your complaint should not contain legal arguments, case law or statutory citations. You are required to provide facts. Your complaint shall be a short and plain statement of your claim and shall provide fair notice to each defendant of the claim against that defendant and of the factual grounds upon which the claim rests.

F. Fees. This complaint cannot be properly filed unless it is accompanied by the \$120.00 filing fee or a motion to proceed without prepayment of fees and costs if you are unable to afford the filing fee and other costs associated with prosecuting this action.

If you are unable to pay the filing fee and service costs for this action, you may ask the Court to let you proceed without prepayment of fees and costs. A blank motion for this purpose is included.

If you wish to proceed without prepayment of fees and costs, you must complete and mail to the Clerk of Court a copy of the "Motion to Proceed Without Prepayment of Fees and Costs" mailed to you with this complaint. This motion will be returned to you without action unless you have an authorized officer at the jail or prison complete the financial statement mailed to you with this form.

Even if the Court authorizes you to proceed without prepayment of filing fees, you are obligated to pay the full \$120.00. If you have the ability to pay a partial filing fee when your complaint is filed, you will be required to pay an amount, based on your assets, of up to the greater of 20 percent of your average monthly balance in your prison account or your average monthly balance for six months immediately preceding the filing of your complaint. Thereafter, your prison account will be garnished at the rate of 20 percent of your monthly income until the filing fee is paid.

G. Form of Pleadings. All pleadings and other papers filed must be on 8 1/2" x 11" paper, legibly handwritten or typewritten. Every document filed after the complaint must have the style of the case and the docket number. Every pleading must be signed by you and must contain your address and telephone number, if any;

otherwise, the pleading will be stricken. See Fed. R. Civ. P. 11(a). No notary is required.

H. Certificate of Service. Each pleading filed after the complaint must contain a certificate of service indicating that the pleading has been served on the opposing parties and the date that it was sent. A pleading will be stricken if it does not contain this certificate of service. See Fed. R. Civ. P. 5.

I. Copies. This Court will not make copies of your complaint or pleadings unless you prepay the required per page copying fee.

J. Form of Pleadings. Do not write letters to the Court. All pleadings and documents should be sent to the Clerk of the Court, and not to a magistrate judge or a district judge.

K. No Evidence. No evidence shall be sent to the Court for filing or storing.

I. PREVIOUS LAWSUITS.

A. Have you filed any other lawsuits in state or federal court dealing with the same or similar facts involved in this action:  
Yes ( ) No ( X )

B. Have you filed other lawsuits in state or federal court relating to your imprisonment: Yes ( ) No ( X )

C. If your answer to questions A or B above is yes, describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using this same outline.)

1. Parties to this previous lawsuit:

Plaintiffs: Samuel Leavis, #220639

Defendants: Judge Herman Y. Thomas, Circuit Court Judge,

District Attorney, John Tyson, Jr. Assistant D.A. Steven Giardini

2. Court (if federal court, name the district; if state court, name the county): Southern District

3. Docket Number: \_\_\_\_\_

4. Were you granted the opportunity to proceed without payment of filing fees? Yes ( ) No ( X )

5. Name of judge to whom the case was assigned: \_\_\_\_\_

6. If your case is no longer pending and has been dismissed, state the reason given by the Court as to why your case was dismissed, i.e., frivolous, malicious, failed to state a claim, defendants were immune, etc.: \_\_\_\_\_

7. Approximate date of filing lawsuit: \_\_\_\_\_

8. Approximate date of ruling by court: \_\_\_\_\_

II. YOUR PRESENT COMPLAINT.

A. Place or institution where action complained of occurred:

Mobile County Circuit Court

B. Date it occurred: June 25, 2001

C. Is there a prisoner grievance procedure in this institution?

N/A

D. Did you present the facts relating to your complaint in the state prisoner grievance procedure? Yes ( X ) No ( X )

E. If your answer is YES:

1. What steps did you take? \_\_\_\_\_

A Motion for Writ of Mandamus to the Criminal Court of Appeals

2. What was the result? Denied

F. If your answer is NO, explain why not: \_\_\_\_\_

G. Your claim (briefly explain your claim: what, when, where, who; do not cite cases; you may, without leave of Court, add up to five (5) additional pages if necessary): \_\_\_\_\_

Circuit Court Denied bail, then on a bond hearing increased bond to an  
amount that the Court knew that the Plaintiff could not afford.

Plaintiff, as a result of having his bond denied was forced to  
relinquish his property, namely his home which he lost. Plaintiff  
basis his complaint on the Judge who in colusion with the Prosecutors  
removed, or other wise denied bond to Plaintiff, in clear abuse  
of their office, and the Plaintiff's Constitutional Rights, under  
the Constitution of the United States, and the Constitution of the  
State Of Alabama, 1901.

**III. PARTIES.**

A. Plaintiff (Your name/AIS): Samuel leavis #220639

Your present address: P.O. Box 5107, Union Springs, Al 36089

B. Defendant(s):

1. Defendant (full name) Herman Y. Thomas is employed

Circuit Court Judge Herman Y. Thomas

as Judge at Mobile County Circuit Court

His/her present address is 205 Government Street, Mobile, Al 36644

(a) Claim against this defendant: Violated Plaintiff's 8th amendment right against excessive bail.

(b) Supporting facts (Include date/location of incident):  
June 25, 2001, Circuit Court of Mobile County

2. Defendant (full name) John Tyson, Jr. is employed  
as District Attorney at Mobile County

His/her present address is P.O. Box 2841, Mobile, Al 36652-2841

(a) Claim against this defendant: Encouraged Judge to set bond at such a high Number as to limit Plaintiff's ability to go bond.

(b) Supporting facts (Include date/location of incident):  
June 25, 2001, Circuit Court, Mobile County Courthouse.

3. Defendant (full name) Steven Giardini is employed  
as Assistant District Attorney at Mobile County Courthouse

His/her present address is P.O. Box 2841, Mobile, Al 36652-2541

(a) Claim against this defendant: Violated Plaintiff's 8th amendment right to bail. encouraged bond to be withdrawn.

(b) Supporting facts (Include date/location of incident):  
June 25, 2001, Circuit Court, Mobile County Courthouse

C. Additional Defendants: (If there are additional defendants, you may list them on separate pages using the same outline above).

IV. A. You must answer the following questions:

1. State the conviction(s) for which you are presently incarcerated: \_\_\_\_\_

CC-01-3014, Possession of Obscenity of a Person underage..

2. When were you convicted? Sentenced on 12/18/2001

3. What is the term of your sentence? 3 years

4. When did you start serving this sentence? 12/18/2001

5. Do you have any other convictions which form the basis of a future sentence? Yes ( ) No ( X )

If so, complete the following:

(a) Date of conviction: \_\_\_\_\_

(b) Term of sentence: \_\_\_\_\_

6. What is your expected end of sentence (E.O.S.) date?

September 22, 2004

B. If this present lawsuit concerns your criminal conviction or sentence, state whether your conviction has been:

	Conviction	Sentence
Reversed	yes( ) no( )	yes( ) no( )
Expunged	yes( ) no( )	yes( ) no( )
Invalidated	yes( ) no( )	yes( ) no( )
Writ of habeas corpus granted	yes( ) no( )	yes( ) no( )

C. If you answered yes to any of the questions, state the Court or entity that relieved you from your conviction or sentence and the date:

V. State briefly exactly what you want the Court to do for you if you win (make no legal argument, cite no cases or statutes):  
Award compensatory damages to replace home, and bond cost, \$26,000.00.

Punitive damages in the amount of Twenty Million dollars.

VI. AFFIRMATION. By my signature below, I swear or affirm under penalty of perjury that the facts set out in this complaint are true and correct.

24 Nov. '03  
Date

Samuel J. Lewis  
(Signature of Plaintiff Under  
Penalty of Perjury)

P.O. Box 5107  
Current Mailing Address

Union Springs, AL 36089

\_\_\_\_\_  
Telephone Number

PLAINTIFF SHALL IMMEDIATELY ADVISE THE COURT IN WRITING OF ANY  
CHANGE IN HIS ADDRESS, E.G., RELEASED, TRANSFERRED, MOVED, ETC.  
FAILURE TO NOTIFY THE COURT OF A NEW ADDRESS WILL RESULT IN THE  
DISMISSAL OF THIS ACTION FOR FAILURE TO PROSECUTE AND TO OBEY THE  
COURT'S ORDER.